

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW MACLACHLAN,

Plaintiff,

Case No. 1:21-cv-461

v.

Honorable Paul L. Maloney

S.L. BURT et al.,

Defendants.

ORDER ON MOTION AND DIRECTING FILING AMENDED COMPLAINT

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. This matter is presently before the Court on Plaintiff's motion to amend the complaint. (ECF No. 7.)

Plaintiff's motion is governed by Federal Rule of Civil Procedure 15 which provides that a party may amend its pleadings by leave of court and that "leave [to amend] shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). In *Foman v. Davis*, 371 U.S. 178 (1962), the Supreme Court identified some circumstances in which "justice" might counsel against granting leave to amend: "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc." *Id.* at 182.

Granting Plaintiff leave to replace his original complaint with proposed amended complaint would be futile. All civil rights complaints brought by prisoners must be submitted on the form provided by this Court. *See* W.D. Mich. LCivR 5.6(a). Plaintiff failed to file his proposed amended complaint on the requisite form. Moreover, the proposed amended complaint suffers from additional defects. For example, because of Plaintiff's handwritten modifications to the typed

list of Defendants, the Court cannot determine with confidence precisely which individuals Plaintiff intends to name as Defendants in this action. In addition, the 61-page proposed amended complaint is repetitious, confusing, and contains numerous legal citations and assertions of law that are discouraged in the instructions on the form complaint. Therefore, the Court will deny Plaintiff's motion to amend the complaint.¹

The Court will direct the Clerk to send to Plaintiff a copy of the form complaint under 42 U.S.C. § 1983 for a civil action by a person in state custody. If Plaintiff wishes to proceed with his action, he must carefully fill out the form complaint and submit it to the Court within twenty-eight (28) days from the date of entry of this order. Plaintiff must follow the instructions provided by the form. The amended complaint will take the place of the original complaint, so it must include and clearly identify all of the Defendants that Plaintiff intends to sue and all of the claims that Plaintiff intends to raise.

The Court further instructs Plaintiff that he must limit his amended complaint to 25 pages. Plaintiff also must limit the statement of his claim to factual allegations not legal arguments or prison policies. Plaintiff must describe the factual allegations only once and in chronological order. Plaintiff may allege in the complaint that he filed grievances, though he is not required to do so. If he chooses to identify his grievances, he may provide only a brief description of the contents of those grievances. He must not copy the entire contents of his grievances into the body of his complaint.

Plaintiff need not re-submit supporting exhibits filed with the original complaint.

The case number shown above must appear on the front page of the amended complaint. If

¹ The Court notes that Plaintiff also failed to file his original complaint using the form, and it likewise suffers from multiple defects. As a result, even if Plaintiff had not filed a motion to amend the complaint, the Court would have ordered Plaintiff to file an amended complaint on the form.

Plaintiff fails to submit an amended complaint in proper form within the time allowed, the Court may dismiss the complaint without prejudice.

Accordingly,

IT IS ORDERED that Plaintiff's motion to amend the complaint (ECF No. 7) is **DENIED**.

IT IS FURTHER ORDERED that the Clerk send to Plaintiff a copy of the form complaint under 42 U.S.C. § 1983 for a civil action by a person in state custody.

IT IS FURTHER ORDERED that Plaintiff must file an amended complaint on the form within twenty-eight (28) days from the date of entry of this order. He must comply with this order and the instructions on the form. If Plaintiff fails to submit an amended complaint in proper form within the time allowed, the Court may dismiss the complaint without prejudice.

Dated: November 10, 2021

/s/ Ray Kent
Ray Kent
United States Magistrate Judge